IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 15197 of 2000

Between:

Smt. V. Rajitha, d/o V. Koteswara Rao,
Sorojini Naidu Vanita Maha Vidyalaya, hyderabad,
R/o Hyderabad.

..... PETITIONER

AND

1 The State of Andhra Pradesh, Rep by Secretary to government ,
Educational Department, Secretariat,
Hyderabad.
2 The Commissioner of Collegiate Education,
Andhra Pradesh, Hyderabad.
3 The Secretary & Correspondent,
Sarojini Naidu Vanita Maha Vidyalaya, M.J.Road,
Nampally, Hyderabad.
4 The Secretary,
College Service Commission, Andhra Pradesh,
Hyderabad.

5 Dr. J. Sunita Sharma, W/o Sri L.A. Vijay,

Aged 50 years, R/o Hyderabad.

(R-5 is impleaded as per the Court order, dated 08-07-2005,

in W.P.M.P.No.22582 of 2001)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court MAY be pleased to issue an order or direction more in the nature of Writ of Mandamus, declaring the Proceedings RC.No.3056/PC.3-2/96 dated 28-8-98 issued by the 2nd respondent as illegal arbitary and unconstituional and contrary to the orders of this Hon'ble Court in WA.No.1165/98 dated 28-7-98 and consequently declare the same as void abinitio null and void and nonest in the eye of law by holding that the petitioner is entitled to be regularised as Lecturer in English.

Counsel for the Petitioner: DR.K.LAKSHMINARASIMHA

Counsel for the Respondents1 and 2: G.P. for Higher Education.

Counsel for the Respondents 3 and 4: None appeared.

Counsel for the Respondent No.5: Mr. D.V. Sitharam Murthy.

This Court made the following:

O R D E R:

This writ petition is filed seeking a Mandamus declaring the proceedings in R.C.No.3056/PC.3-2/96, dated 28-08-1998, issued by the second respondent as arbitrary, illegal and contrary to the orders of this Court in W.A.No.1165 of 1998, dated 28-07-1998, and consequently to declare that the petitioner is entitled for regularization of her services as Lecturer in English.

According to the petitioner, she did her M.A. in English and is fully qualified and eligible for being appointed as a Lecturer in English. During 1987-88, she was appointed as a part time Lecturer in S.N. Vanitha Maha Vidyalaya, Hyderabad and worked in that College up to February, 1988. Later, she was appointed as a part time Lecturer in English in S.P. Mahila Kalasala, Saidabad, Hyderabad, and worked for the period from 25-09-1988 to 31-03-1990. Subsequently, in 1990, she was reappointed in S.N. Vanitha Maha Vidyalaya, Hyderabad, and has been working in the same college till date. It is stated that as per the guidelines laid down in G.O.Ms.No.302, Education (CE.I) Department, dated 23-08-1991 and G.O.Ms.No.328, Education (CE.III) Department, dated 15-10-1997, she is entitled for regularization of her services. In fact, earlier, she filed W.P.No.14118 of 1996 and the same has attained finality in W.A.No.1165 of 1998. However, the second respondent issued the impugned proceedings rejecting the case of the petitioner only on the ground that the service

of 63 days rendered by her in S.P. Mahila Kalasala, Saidabad, Hyderabad, is not supported by authentic material.

The case of the petitioner is that though there is ample evidence produced by her before the respondent authorities, they have failed to consider the same in a proper perspective and therefore, passing of the impugned proceedings is arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner. It was asserted that the service of the petitioner in S.P. Mahila Kalasala, Hyderabad, was not found reckonable as per G.O.Ms.No.328 dated 15-10-1997. It was further asserted that as she has not put in the required period of service, her case could not be considered for regularization.

The learned counsel for the petitioner strenuously contended that the respondent authorities have not properly appreciated the evidence produced by the petitioner insofar as the service rendered by her in S.P. Mahila Kalasala, Hyderabad, for a period of 63 days is concerned. The learned counsel drawn the attention of the Court to the various documents produced by the petitioner in support of her case viz., (i) The service certificate, dated 19-09-1991, issued by the Principal and attested by the Secretary of the S.P. Mahila Kalasala showing that the petitioner worked as Lecturer in English in their college from 25-09-1989 to 31-03-1990, (ii) A certificate, dated 03-10-1991, issued by the Principal of the College stating that the petitioner worked as Lecturer in English for the said period on a consolidated pay of Rs.800/- per month., and (iii) A letter, dated 27-01-1998, issued by the Special Officer of the College addressed to the Director of Higher Education, Government of Andhra Pradesh, Hyderabad, which reads as follows:

> *" As per the 328 G.O., it has been instructed to the College authorities to produce the records of the College from 1989 to 1990. We regret to inform you that those records are not available in the college. The service certificates of Smt. K. Rajitha has been produced to ensure that she had worked in this institution. Her appointment particulars are as follows:*
>
> *Smt. K. Rajitha Lecturer in English*

Date of Appointment 25-09-1989
Date of Termination 31-03-1990"

Per contra, the learned Government Pleader for Higher Education appearing for the respondents 1 and 2 contended that the service particulars of the petitioner were not available and even when it was verified, it came to the notice of the respondent authorities that there was no authentic record to show the service rendered by the petitioner for 63 days in S.P. Mahila Kalasala. Therefore, the impugned proceedings does not suffer from any infirmity warranting interference of this Court.

I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the material available on record.

The only reason given by the respondent authorities for rejecting the case of the petitioner was that she does not satisfy the criteria of period of service as required for the purpose of considering her case for regularization. The service certificate, dated 19-09-1991, and the certificate, dated 03-10-1991, show that the petitioner worked as part time Lecturer in English in the S.P. Mahila Kalasala for the period from 25-09-1989 to 31-03-1990, on a consolidated pay of Rs.800/- per month. Further, when the particulars were called for at the time of considering the case of the petitioner for regularization of her service as per G.O.Ms.No.328 dated 15-10-1997, the Special Officer, who was incharge of the affairs of the College, has informed that the records are not available in the College and issued the certificates as referred to above. The respondent authorities, taking into consideration the above aspect, came to the conclusion that the service rendered by the petitioner in S.P. Mahila Kalasala for 63 days is not supported by any authentic record.

Normally, the service of a part time Lecturer is recognized and taken into account if the acquittence register, or cash book or in the attendance register, the name of the person is shown as a part time Lecturer. The petitioner has produced only the attendance register without furnishing any other material, which cannot be relied upon

and cannot be considered as an authentic one for the purpose of considering her case for regularization as per G.O.Ms.No.328, dated 15-10-1997.

It is true, that as submitted by the learned counsel for the petitioner, in the absence of records as stated by the Special Officer of the college, there could not have been any other material other than the certificates as referred above. Once the College authorities have expressed that the records are not available, whatever is produced unless and until the same is found to be bogus or vague, it was not proper on the part of the respondent authorities to reject the case of the petitioner for regularization as per G.O.Ms.No.328 dated 15-10-1997. In fact in view of the letter, dated 27-01-1998, issued by the Special Officer, the benefit of doubt must have been given in favour of the petitioner.

In this view of the matter, the second respondent is directed to look into the matter afresh, after giving due opportunity to the petitioner to prove the fact as to whether she had worked in S.P. Mahila Kalasala for 63 days, apart from the record already produced by her, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order, and to take further instructions in this regard from the Government, if necessary. Till such time, the petitioner shall be continued in service as per the terms and conditions applicable as of now.

With the above directions, the writ petition is disposed of. No costs.

_____ **(C.V.RAMULU, J)**

Date: 08-07-2005

ghn

To

1 The Secretary to Government, State of Andhra Pradesh, Educational Department, Secretariat, Hyderabad.

2 The Commissioner of Collegiate Education,
Andhra Pradesh, Hyderabad.

3 The Secretary & Correspondent,
Sarojini Naidu Vanita Maha Vidyalaya, M.J.Road,
Nampally, Hyderabad.

4 The Secretary,
College Service Commission, Andhra Pradesh,
Hyderabad.

5 Two CCs to the Government Pleader for Higher Education, High Court of A.P., Hyderabad. (O.U.T.)

6 Two CD copies.